

**SELECTED STAKEHOLDER COMMENTS ON NOTICE OF PROPOSED POLICY ON IMPLEMENTING NWPA §180(c)  
02/06/00**

STAKEHOLDER	COMMENT ON NOPP, 60 Fed. Reg. 1 (Jan. 3, 1995) <sup>1</sup>	POTENTIAL APPLICABILITY
Yakama Nation	The Yakama Nation recommends that DOE...consult with the Yakama Indian Nation government concerning its plans for technical assistance on a government-to-government basis, including proposals for direct technical assistance to the YIN to ensure protection of the health, safety, and welfare of YIN Tribal members during transportation activities.	
White Pine County Nuclear Waste Project Office	<p>To ensure that as much of available funds are ultimately used for training and equipping of first responders, DOE's programs for implementation of Section 180 (c) should provide for direct funding of local governments.</p> <p>Implementation of Section 180(c) should not include a requirement that grant recipients provide matching funding.</p> <p>Administrative costs associated with whichever program is selected by DOE should be kept at a minimum.</p>	
Texas Dept. of Public Safety	<p>Funds should be based on transportation routing, storage and disposal site locations.</p> <p>Distribution to states is based on the number of sites, and miles of established transportation routes.</p>	
Nevada Nuclear Waste Project Office	Funding levels should be based on the unique needs of each individual state/tribe and should not be arbitrarily established by DOE.	
Western Interstate Energy Board	Provide annual implementation grants to states and tribes, with 75 percent of the grant funds allocated according to the number of projected shipment miles in the jurisdiction and 25 percent of the fund allocated by the Secretary to ensure minimum funding levels and program capabilities among impacted states and tribes [25% discretionary fund].	
Southern States Energy Board	A minimum or base level of funding should be provided to each jurisdiction. In addition, a larger portion of the funding should be allocated to each eligible jurisdiction based on a formula that includes both the number of route miles in the jurisdictions and the population at risk along the shipment routes, with consideration given to existing emergency response	

<sup>1</sup> Comments reproduced here are only those directly related to funding formula and distribution issues.

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Council of State Governments, Midwest Office	<p>By virtue of their central location, the Midwestern states will be affected by more shipments of commercial spent nuclear fuel than any other region except the West.</p> <p>The amount of funding states receive should be based primarily upon the impact of shipments on each state...a portion of the available funds should be directed to ensuring minimum funding levels in states that might require assistance beyond their impact-based share...[amounts] must ensure that all affected states and tribes receive adequate funding to protect public health and safety....</p>	
Commonwealth Edison Company	ComEd concurs with the Midwestern High-Level Radioactive Waste Committee that DOE develop allocation formulas in consultation with the states and that the amount of funding states receive should be based primarily upon the impact of shipments on each state.	
Nuclear Energy Institute	<p>DOE [should] make the extent of funding already provided under State or local [fee] programs a criterion for determining eligibility for any additional funds to States or Indian Tribes under 180(c).</p> <p>The WGA has proposed draft regulations that recommend a formula that keys the bulk of allocations to the total number of shipments multiplied by miles traversed through a State's or Indian Tribe's lands by spent nuclear fuel shipments. We disagree with the underlying premise that those States or Indian Tribes receiving more traffic are automatically in need of more extensive programs...any State that qualifies should have capability to respond to spent nuclear fuel transportation accidents. Programs for funding should carefully assess the current status of programs and provide funding only for the incremental funds and technical assistance necessary to expand programs to include emergency preparedness and response for spent nuclear fuel.</p>	
Council of State Governments Eastern Regional Conference	The Task Force believes that a minimum level of funding should be provided to affected states and jurisdictions for standardized training programs. After a minimum amount has been provided to states, the most important factors in the formula to determine additional funding are a combination of route miles and at-risk populations along the route. This will ensure funding to jurisdictions in the region regardless of the size of the area.	
New Mexico Energy, Minerals and Natural Resources Dept.	[endorses WIEB formula outlined above]	

Nebraska Civil Defense Agency	The funding formulas should be primarily based on frequency of shipments and shipment miles. The greater the frequency of shipments the greater the risk of an accident. The greater the distance the shipment must travel, the more emergency responder training required.	
Colorado Emergency Management Agency	The various factors noted for consideration for funding formulas are all valid. The concern is that all potentially affected jurisdictions receive some base level of training/funding and that this be increased based on the high level of risk, using a risk assessment model that balances the likelihood of an accident/incident to occur, the response capability of the jurisdiction to react, and likely affected population and facilities.	
National Conference of State Legislatures	Since NWPA shipments will traverse many miles in sparsely populated areas, NCSL generally agrees with a mileage-based allocation process for grant money. However, places and situations exist where a larger number of trained public safety officials will need to respond to a radiological transportation emergency based on the numbers of people residing, working, visiting or traveling in the vicinity of the emergency. An evacuation of 10,000 people, for example, would require many more public safety officials than an evacuation of 1,000 people. DOE should retain some flexibility for special population situations and possible allow larger jurisdictions to train more personnel.	
Nevada Nuclear Waste Project Office [2]	Nevada strongly objects to DOE arbitrarily determining the amount of funds a state will require to adequately train personnel and prepare for shipments under Section 180(c). No formula that DOE can devise will be adequate to account for the vastly different circumstances found in the various states and tribes affected by NWPA shipments. Any grant program that is implemented must allow individual states and tribes to assess their own funding needs and present those to DOE as part of the application package for grant assistance. The approach recommended by WGA and WIEB in the “strawman regulations” submitted to DOE in 1994 provides a model whereby states will be assured an adequate annual base allocation.	
Shoshone-Bannock Tribes of the Fort Hall Indian Reservation	The Shoshone-Bannock Tribes support the exclusion of population as a factor in the funding allocation formula under Section 180(c). Because the Shoshone-Bannock Tribes have a relatively small population distributed over a relatively large geographical area, the inclusion of population in the funding allocation formula would likely result in inadequate funding and assistance to the Tribes, and inadequate protection to tribal lands and tribal members.	
Council of State Governments—	The Committee feels strongly that states should be allowed to determine their own training needs and request the amount of money necessary to accommodate those needs.	

Midwestern Office [2]		
Eureka County Yucca Mountain Information Office	<p>Eureka County believes that local jurisdictions—city and county governments—should be eligible to receive technical assistance funding directly from the DOE...any implementation program must include a mechanism for local governments to receive direct funding without matching fund requirements.</p> <p>The formula proposed by DOE appears to shift the financial burden for preparedness and training to individual states, thereby creating potentially major unfunded mandates for local governments and states. The financial burden would fall heaviest on states that are least prepared and most likely to experience major impacts as a result of the commencement of spent fuel/HLW shipments.</p>	
National Association of Regulatory Utility Commissioners	We concur with the proposal to allocate the funds to the appropriate state and tribal officials instead of to the local groups as the most constructive use of funds to supplement existing state resources.	
Nuclear Energy Institute [2]	Breaking the grants into a base amount and a variable amount based upon route miles is an equitable approach to dispensing limited funds. To do otherwise would either provide too little funds to small jurisdictions (based upon route miles only), or too little funds to large states (based upon a flat amount per jurisdiction).	
International Association of Fire Fighters	<p>DOE's proposal to give base grants with variable amounts based on the number of highway miles that will be involved, may not sufficiently allow for the "varying levels of preparedness" of jurisdictions. Indeed, the very concept of block grants seems to indicate that DOE assumes that "one size fits all"—that training needs do not vary from state to state.</p> <p>Furthermore, DOE discounted population as a factor for determining the allocation of funds, stating that "the same level of effort is required in responding to an emergency no matter how many people may be affected." The IAFF strongly disagrees. Controlling the scene of a hazardous materials incident is more complex and often more urgent in well-populated areas. Ensuring the public's safety during a hazmat emergency is the single most important goal of an emergency responder, and population is obviously a factor in that response. For example, an accident could necessitate that the surrounding populace be evacuated, a task whose difficulty grows exponentially as population increases.</p>	

State of Idaho INEEL Oversight Program	<p>The funding should not, as proposed, be based on an arbitrary formula established by DOE, but on state- or tribe-specific assessment of needs.</p> <p>Adequate response to incidents involving different materials (e.g., foreign research reactor SNF, Naval SNF, transuranic waste, etc. as well as to SNF and HLW under OCRWM's management) involves many common elements. In addition, shipment of different materials during the same general time frame places a significant burden on the resources of sparsely populated areas, such as most of Idaho. Therefore appropriate levels of preparedness should be based on a comprehensive understanding of potential multiple shipping campaigns.</p>	
New Mexico Energy, Minerals & Natural Resources Department [2]	<p>The State of New Mexico vehemently rejects the DOE assumption, embodied in its proposed funding allocation formula, that the Department can at this time predict with a high degree of precision and accuracy the total amount of funds required to prepare all affected entities for NWSA shipments. It is obvious to us that the "one size fits all" approach will not work for a program of this nature. There are simply too many and diverse jurisdictions, all with varying emergency response capabilities. We therefore reiterate our call for funding to be based (at least in part) on individual "needs" assessments.</p>	
New York State Emergency Management Office	<p>The variable amount funding basis of 160 miles is inappropriate for New York State. Population densities must be factored into the funding program. In New York, more populated areas have a larger and more complex response organization and therefore require a greater training effort as compared to a rural area with less complex organization. An example would be in a traffic control situation for rerouting traffic around an incident. A populated area would require more responders than would the rural area.</p>	
Commercial Vehicle Safety Alliance	<p>We understand that Department of Energy (DOE) funds can not be commingled, however we question the provision that Section 180(c) training would not be combined with other Department sponsored transportation preparedness or training programs. We believe that the ENAS inspector training may be applicable to other DOE radioactive shipments, therefore it would be cost effective to train safety and enforcement inspectors to handle more than NWSA shipments. There is an indication in the Proposed Policy and Procedures that this grant program may be combined with a Department-wide grant program in the future. We would appreciate clarification regarding this issue and possible exceptions made for cross training providing the funds were not commingled.</p>	

Council of State Governments— Midwestern Office [3]	<p>We are concerned that the proposal does not give any indication of how much a “typical” award might be...[t]he lower bound would presumably be the base grant amount of \$75,000, but what would be the upper bound?</p> <p>How often does OCRWM plan to adjust the base grant amount for inflation? Will OCRWM use updated CRCPD survey results to define the base grant amount?</p>	
Western Interstate Energy Board [2]	<p>The Committee believes that DOE is correct in attempting to ensure a yearly base level of funding for states and tribes in the Notice. However, it is inappropriate for DOE to establish this base level of assistance until states and tribes have received planning grants and have determined the appropriate amounts of funding required. Furthermore, the Committee continues to insist that the variable funding amount allocated to states and tribes take into account the disparity of impacts of NWPA shipments. DOE should therefore combine the individual state and tribal grant applications and allocate twenty-five percent of this total amount to ensure minimum funding levels and program capability levels in each NWPA shipment corridor state or tribe. Seventy-five percent of the combined grant applications should then be allocated to states and tribes based on the proportional number of projected shipment-miles in each jurisdiction compared to the total number of shipment-miles. This will help ensure that states which see greater numbers of shipments through their jurisdictions will have the resources necessary to properly prepare and respond to any accidents which may occur.</p>	
Nevada Nuclear Waste Project Office [3]	<p>DOE’s decision to drop the arbitrary formula-based approach by which the “variable grant amount” is established...and replace it with one that is needs-based and individualized to specific states and tribes circumstances is the single most important improvement in the revised proposed policy and procedures. Nevada remains concerned, however, that the amount established for the proposed “base grants” continues to be arbitrary and inadequate, and that there is no assurance the amount of funds to be provided will be adequate to cover the full costs of carrying out necessary training for safe transportation and emergency response.</p>	
Southern States Energy Board [2]	<p>Base grant funding will be insufficient to accomplish the desired outcome. Parts I and II of the variable grant amount will be insufficient for any jurisdiction currently without CVSA North American Enhanced vehicle inspectors or until transportation routes are established so that affected jurisdictions are identified.</p>	

National Congress of American Indians	NCAI and the [NCAI committee] approve of the DOE's decision to change the funding formula in the proposed policy to include a more needs-based approach. This new approach, which excludes the population factor and other arbitrary variables, will enable tribes to more accurately determine the assistance they need to be prepared for NWPA shipments.	
New Mexico Energy, Minerals & Natural Resources Department [3]	<p>The State of New Mexico generally concurs in DOE's objective"...to provide a base grant to every eligible state and tribes to aid in planning and coordination activities for training in a timely manner." We also support the proposal to provide variable amounts of funding and technical assistance to ensure each jurisdiction is adequately prepared for NWPA shipments. DOE is commended for recognizing existing capabilities vary significantly among state, tribal and local governments, thereby requiring different levels of assistance.</p> <p>However, we take strong exception to the proposed amount of the base grant and how it was established. Based on the experience of those states represented on the Western Governors' Association [WIPP committee], it has been determined that \$150,000 per state or tribes is the minimum level of funding necessary to identify critical transportation safety needs...[o]nly after a jurisdiction's needs have been delineated is it appropriate for DOE to establish a base grant amount for that entity.</p>	
Prairie Island Indian Community	The Prairie Island Indian Community supports the idea that individual tribes and states determine for themselves the level of preparedness needed, training needs, and infrastructure needs.	